IN THE COURT OF MUHAMMAD NAVEED IQBAL,
ADDL. SESSIONS JUDGE, NANKANA SAHIB.

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SESSIONS CASE NO.402 OF 2009.

SESSIONS TRIAL NO.     OF 2009.

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The State    Vs.    Mst. Asia Bibi wife of Ashiq, Caste Christian, Resident of Ittanwali Chak No.3, PS Sadar Nankana Sahib.

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Case FIR NO.326/2009.
Under Sec.295-C, P.P.C.
PS Sadar Nankana Sahib.

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JUDGMENT.

Above mentioned accused Mst. Asia Bibi has been challaned by the police of Police Station Sadar Nankana Sahib to face trial in Case FIR No.326 ( Exh.PA/1 )recorded on 19.6.2009 under section 295-C on the complaint of Qari Muhammad Saalam (PW-1) for the allegation of delivering derogatory/objectionable remarks towards the Holy Prophet ( PBUH) and Holy Quran.

2. The brief facts of the case according to the FIR Exh.PA/1 lodged by Qari Muhammad Saalam that on 14.6.2009, the complainant of this case are that Mst. Asia Bibi wife of Ashiq Masih who is a Christian lady and a Christian preacher alongwith the other ladies ( PW's ) of the village were plucking Falsa (فالسہ ) from the garden belonging to one Muhammad Idrees son of Ali

Ahmed. The said accused Mst. Asia Bibi delivered the derogatory remarks towards the Holy Prophet ( PBUH) by stating that the Holy Prophet of the Muslims fell ill one month prior to his death and Toba Naooz Billa ( توبہ نعوذ باللہ ), the insects nourished in his mouth and ear. She further stated that the Holy Prophet (PBUH) married with Hazrat Khadeja Razi Allah Anha ( رضی اللہ عنہا ) just for her wealth and after that the same was looted by him. She was discarded by him. She further stated about the Holy Quran that the Holy Quran is not the book of Almighty Allah but it is a self/man made book. Mst. Afia Bibi, Mst. Mafia Bibi and Mst. Yasmeen Bibi etc. told all these to the complainant and the other people of the village.

3. On 19.6.2009, the lady accused Mst. Asia Bibi was called by the inhabitants of the village and asked about the occurrence wherein she confessed her guilt and she requested for the apology. So, the accused Mst. Asia Bibi has committed the blasphemy and has also extended the derogatory and sarcastic remarks towards the Holy Book.

4. Muhammad Rizwan SI (PW-5) had recorded the formal FIR Exh.PA/1 without any addition or omission and thereafter he sent the copy of the FIR to Arshad Dogar SI, the IO for the purpose of further proceeding.

5. Muhammad Amin Bukhari SP ( Investigation) Sheikhupura had conducted the investigation of this case who deposed on oath that on 24th June, 2009, he was posted as SP (Investigation) Sheikhupura. On the same day, vide letter No.18523 dated 26.6.2009 issued by DIG/RPO Range, Sheikhupura, the investigation of this case was entrusted to him as the office of SP (Investigation) Nankana Sahib was vacant. On 29.6.2009, he summoned both the parties at his office. 27 people from the complainant party and 5 persons from the accused party appeared

before him. Five persons from the complainant side recorded their statements u/s 161 Cr.P.C. before him. He investigated the case thoroughly. After obtaining the permission from the concerned court Exh.PB, he recorded the statement of the accused Mst. Asia Bibi in the jail on 06.7.2009. During his investigation, it revealed upon him that in the Falsa ( فالسہ ) field owned by Muhammad Idrees, the ladies of the village including the accused and the PWs were present there who started to discuss prophets and religious etc. The accused Mst. Asia Bibi who is a Christian delivered derogatory remarks before the other ladies which come under the definition of blasphemy. The owner of the said field namely Idrees ( whose statement u/s 161 Cr.P.C. separately recorded by him ) also attracted towards the said ladies, before him, the PWs ( ladies ) narrated the matter who inquired from the accused Mst. Asia Bibi about her narration upon which she confessed that she had delivered the derogatory remarks, however, she begged pardon. After his investigation and probe, he declared the accused Mst. Asia Bibi as guilty of blasphemy on 06.7.2009 and uttering the derogatory remarks about the Holy Prophet ( PBUH) and the Holy Quran. During the investigation, he came into his knowledge that the accused Mst. Asia Bibi stated to the PWs that Hazrat Muhammad ( PBUH) fell ill on the bed one month prior to his death and Naooz Billa ( نعوذ باللہ ), the insects were delivered/created in his mouth and ear. The accused further stated that Hazrat Muhammad ( PBUH) contracted marriage with Hazrat Khadeja Razi Allah Anha in order to loot and accumulate her wealth and after looting the same, he discarded Hazrat Khadeja Razi Allah Anha. The accused further stated that Hazrat Muhammad ( PBUH) was in the habit of theft. The accused further told that the Holy Quran is not a divine book but it is man made. During the investigation, it also came into his knowledge that on

the day of occurrence, the religious discussion was exchanged between the accused Mst. Asia Bibi and the PWs, in which the accused Mst. Asia Bibi delivered derogatory and sarcastic remarks towards the Holy Prophet ( PBUH) and Holy Quran. It also came into his knowledge that during the investigation, the accused Mst. Asia Bibi took the stance that the PWs had leveled the allegation against her as they tried to make her Muslim and on her refusal, the allegation was made but the same stance taken by the accused Mst. Asia Bibi was not proved. Further more, it came into his knowledge that the religious discussion was started when one of the PW (Muslim lady ) asked for the water and in response, the accused Mst. Asia Bibi was presented the water, the said PW refused to have/drink it from the hand of a Christian lady.

After conducting the investigation and declaring the accused Mst. Asia Bibi as guilty, he sent back the file of this case to the SHO PS concerned.

6. Muhammad Arshad SI-IO had also conducted the investigation of this case who deposed on oath that on 19.6.2009, he was posted at PS Sadar Nankana Sahib. The MHC of the PS informed him that at village Ittanwali, a religious quarrel had taken place and he had to rush there. He went there after receiving the copy of FIR and having apprised that the investigation of this case was entrusted to him. He inspected the place of occurrence and recorded the statements of the PWs under section 161 Cr.P.C. and prepared rough site plan Exh.PC. He arrested the accused with the help of two lady constables who were in his accompany. He presented the accused person before the Judicial Magistrate and then sent her to judicial lockup. He also submitted an application for the medical examination of the accused who ( accused ) refused to be medically examined. The application is Exh.PD. After that,

the investigation of this case was entrusted to Muhammad Amin SP ( Investigation ) Sheikhupura.

7. A charge under section 295-C, PPC was framed against the accused on 13.10.2009, for which he pleaded not guilty and demanded her trial where after in support of its case, following witnesses were produced by the prosecution.

PW-1 Qari Muhammad Saalam is the complainant of this case.

PW-2 Mst. Mafia Bibi is an eye witness of this case.

PW-3 Mst.Asma Bibi is also an eye witness of this case.

PW-4 Muhammad Afzal is the witness of extra judicial confession made by the accused before him.

PW-5 Muhammad Rizwan SI had chalked out the formal FIR of the instant case.

PW-6 Muhammad Amin Bukhari SP ( Investigation ) Sheikhupura had conducted the investigation of this case.

PW-7 Muhammad Arshad SI-IO had also conducted the investigation of this case.

CW-1 Muhammad Idrees is the owner of the said field where the occurrence took place.

8. PWs Mst.Yasmeen Bibi and Mukhtar Ahmed were given up being un-necessary by the learned ADPP for the State and after that the learned counsel for the complainant had closed the prosecution evidence/case.

9. In her statement recorded under section 342 Cr.P.C, the version of the accused was as under :-

" I am married woman having two daughters. My husband is a poor labourer. I used to pluck Falsa from the plants of Muhammad Idrees alongwith number of

ladies of the daily wages basis. On the alleged day of occurrence, I along with number of ladies were working in the fields. Both the ladies Mst. Mafia Bibi and Mst.Asma Bibi PWs quarreled with me over fetching water which was offered by me to bring for them but they refused saying that since I am Christian, so, they never took water from the hand of Christian. Over this, quarrel was insued and some hot towards were exchanged between myself and the PWs ladies. The PWs then approached Qari Saalam complainant through his wife who remained teaching the both ladies. Hence, the PWs were conspiring with Qari Saalam got a false, fabricated, and fictitious Case against me. I offered my oath to police on Bible that I had never passed such derogatory and shameful remarks against the Holy Prophet ( PBUH) and the Holy Quran. I have great respect and honour to the Holy Prophet ( PBUH) as well as Holy Quran and since police had conspired with the complainant, so, the police has falsely booked me in this case. The PWs are real sisters and interested to falsely involve me in this case as they both felt disgrace and dishonour on the basis of altercation and hard words extended to them. Qari Saalam complainant is also interested person and both the ladies remained teaching Holy Quran from his wife. My forefathers are living in this village since creation of Pakistan. I am also about 40 years old and since the alleged occurrence, no complaint likewise this never exist against me. I am uneducated and no priest of Christian. So much so, there is no church of the

Christian in the village, so, being ignorant of any Islamic thought, how can I use such clumsy and derogatory remarks against the beloved Prophet ( PBUH) of Allah and the Divine Book viz Holy Quran. PW Idrees is also a interested witness who has close family links with their above said ladies''.

10. Neither the accused opted to produce defence evidence nor to appear under section 340 (2) Cr.P.C.

11. The learned counsel for the complainant argued that the lady accused Mst. Asia Bibi has committed the blasphemy an offence u/s 295-C, PPC and has uttered derogatory remarks towards the Holy Book and has committed the offence u/s 295-B, PPC. He further argued that the prosecution has proved its case beyond the reasonable doubt with the help of eye witnesses. before whom, the accused lady uttered derogatory and sarcastic remarks while plucking the Falsa in the Falsa Garden. He further pressed into service that the matter was investigated by SP ( Investigation ) Sheikhupura who after thorough investigation and probe declared Mst. Asia Bibi accused as guilty. Thus, the PW-6 has cemented the version of prosecution by declaring the present accused as guilty without any doubt. He also postulates that all the PWs are unanimous in time, date, place and words etc. That there is no contractions in between any of the PWs. He further argued that an assembly was baptized in the village wherein the accused person was called and she also confessed her guilt and requested for pardon. He also opined that there are so many Christians living in the same village along with Muslims since generation but not a single incident of such nature took place in the past. Both the nations i.e. Christians and Muslims are in tolerance towards the religious feelings and faith of each other. Had any incident of blasphemy been happened or occurred in the past, there should

have been criminal cases or religious altercation in the village are living in a same village with a quite harmony irrespective of their religious differences of faiths and emotions. It was a unique and maiden incident in the history of the village that a Christian lady did the offence of blasphemy, so, there was no need on the part of complainant and the PWs to report the matter to the police. They should had not listened the same. He further established that full vigor that there is no any previous enmity in between the complainant, PWs and of the family of lady accused which indicates that there is no malafide or ulterior motive on the part of the complainant and PWs towards the lady accused. He further states that nothing has been produced by the lady accused in his defence which also fortified the guilt of the accused. He summed up his stance after submitting that both the PWs i.e. PW-2 and PW-3 are unmarried and major girls and are also the Parda Nasheen (پردہ نشین). They should not been put themselves in the witness box while coming in the court Kachery, if the incident had not been occurred or both the PWs had not listened the sarcastic remarks of blasphemy. So, the learned counsel emphasized that the lady accused be punished with full-fledged dose prescribed for the offence in the law which is the death sentence.

12. On the other hand, the learned defence counsel argued that firstly it is mandatory to seek permission by Provincial or Federal Government prior to the registration of this case and the same has not been obtained before the lodging of the FIR, secondly he agitated on the score that no IO of the rank of SP can investigate the case of blasphemy but only ASI has investigated the case. That all the PWs are interested witnesses. They have not witnessed or listened the blasphemy. Both the girls and the complainant himself are the interested witnesses. He further stated that an altercation took place on 14.6.2009 in the Falsa Garden in between the PWs

and the lady accused on fetching the water and it is pertinent to mention here that the Muslim ladies refused to drink water at the hand of lady accused who is a Christian and just to satisfy the grudge and just to teach the lesson to the Christian lady, PWs and the complainant has concocted the story of blasphemy just to book the lady accused in a criminal case and to get her punished under a heavy weight charge. Even otherwise, no occurrence took place and no derogatory remarks and sarcastic remarks have been uttered from the mouth of the accused towards the Holy prophet and holy Book. He further stressed that this is a fanciful drama against the Christian minority staged by the Muslim Majority and the drama has been planted at a crucial time when so many such like incidents have been happened in our beloved country of such nature.

He further pressed into service that there is a sheer contradiction in between the statements of all the PWs on the score of number of the people gathered in the public gathering where the lady accused was also summoned and where she made so called extra judicial confession. PW-1 narrated the number of people gathered there as 100/- while PW-2 opined it as 1000/- and PW-3 has declared it as 2000/-.

The learned counsel stressed that the occurrence took place on 14.6.2009 while the FIR was lodged on 19.6.2009 after five days of the occurrence. So, the lodging of the FIR and the roping of the lady accused is the vivid result of the consultation and deliberation. The learned defence counsel closed his arguments by stating that the prosecution miserably fail to stand on its own legs and to prove the guilt of the lady accused with unshakeable and confidence inspiring evidence, hence, as there is no previous record of such cases on the part of the accused, she be acquitted from the charge.

13. I have heard the arguments advanced by the learned counsel for both the parties and have also perused the record.

14. Learned defence counsel while arguing raised tow major objections.

I) That the investigation was not conducted by any SP rank Officer but was rather conducted by only a Sub-Inspector and

II) That no permission was seeked by the Provincial or Central Government prior to the registration of the instant case which was mandatory.

15. So far as the first objection is concerned, the case was factually investigated by Mr. Muhammad Amin Bukhari, SP ( Investigation ) Sheikhupura. He while appearing in the witness-box as PW-6 stated that the investigation of the case was entrusted to him vide letter No.18523 dated 26.6.2009 issued by DIG/RPO Sheikhupura and he investigated the case thoroughly and recorded the statements under section 161 Cr.P.C. So, there is no force in this objection and the answer of the second objection is that from the very beginning of the trial till the close of the evidence, the learned counsel did not raise any objection orally or in black and white form.

16. Even otherwise, the compliance to Section 196 Cr.P.C. is to be given in case of an offence u/s 295-A, PPC but section 295-C, PPC was not present therein, so, to read section 295-C as part of section 196 Cr.P.C. would amount to interfere in spirit of legislation. Wisdom of legislature in this regard could not be challenged.

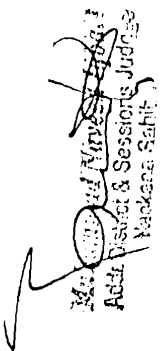
17. Prosecution produced both the ladies who are the eye witnesses of the occurrence and before whom the derogatory

remarks/ ( Blasphemy ) were made/uttered. PW-2 and PW-3, Mst. Mafia Bibi and Mst. Asma Bibi while appearing in the witness box narrated all they listened. PW-2 Mst. Mafia Bibi has deposed on oath that on 14.6.2009 Sunday, she along with Mst. Asma Bibi, Mst. Yasmeen Bibi and accused Mst. Asia Bibi was present in the field of Falsa in the village. The accused Mst. Asia Bibi is Christian by religion. The accused Mst. Asia Bibi present in the court stated before him and others that Hazrat Muhammad (PBUH) fell ill on the bed one month prior to his death and Naooz Billah ( ), the insects were developed/created in his mouth and ear. The accused further stated that Hazrat Muhammad (PBUH) contracted marriage with Hazrat Khadeja Razi Allah Anha just in order to loot her wealth and after looting the same, the Holy Prophet discarded Hazrat Khadeja Razi Allah Anha. She further told that the Holy Quran is not a divine book but it has been written/compiled by you, Muslims. The PW narrated all this to Qari Saalam, Muhammad Afzal and Mukhtar Ahmed etc. who called a public gathering in the village where the accused Mst. Asia Bibi was also brought and she confessed her guilt in the public gathering and she also requested the pardon.

18. PW-3 Mst. Asma Bibi has deposed on oath that on 14.6.2009, she along with Mst. Mafia Bibi, Mst. Yasmeen Bibi and accused Mst. Asia Bibi was present in the field of Falsa and was plucking the Falsa. The accused Mst. Asia Bibi is Christian by religion. During the plucking of Falsa, the accused Mst. Asia Bibi narrated before her and others that Hazrat Muhammad ( PBUH) fell ill on the bed one mouth prior to his death and the insects were hatched from his mouth and ear. She further declared that Hazrat Muhammad (PBUH) contracted the marriage with Hazrat Khadeja Razi Allah Anha in order to loot her wealth and after looting the same, she has discarded by the Holy Prophet (PBUH). She further

mentioned that the Holy Quran is not a divine and Holy Book but it is man made book. She along with other PWs informed the matter to Qari Saalam, the complainant. Muhammad Afzal and Mukhtar were also present there. They managed a public gathering in the village where the accused Mst. Asia Bibi was also brought and she confessed her guilt there and she also requested for the pardon. The statement of PW was recorded before the IO under section 161 Cr.P.C.

19. PW-1 Qari Saalam is the complainant himself. He did not actually listen the derogatory remarks directly but through the PW-2 and PW-3, so, the status of his testimony is of " Hearsay ".

20. PW-4 is Muhammad Afzal son of Muhammad Tufail. He is the PW of extra judicial confession. He stated in witness box that he was very much present in the pubic gathering held after the incident wherein the accused Mst. Asia Bibi was brought and she confessed her guilt and requested for the pardon.

21. CW-1 was an important witness namely Muhammad Idrees son of Haji Ahmed Din, the owner of the Falsa Garden while appearing in the witness-box, he established as on 14.6.2009, he was present in his house. Mst. Mafia Bibi, Mst.Asma Bibi, Mst. Yasmeen Bibi along with Qari Saalam and Mukhtar Ahmed came to him and narrated him about the occurrence in connection with the derogatory and objectionable remarks and blasphemy towards the Holy Prophet ( PBUH) and Holy Quran uttered by the present accused Mst. Asia Bibi. On 19.6.2009, a public gathering was held in the house of Mukhtar Ahmed and he was also present in the public gathering. The accused Mst. Asia Bibi who was a Christian, was brought there who confessed her guilt before him as " she has committed the blasphemy and has delivered the improper and derogatory remarks about the Holy Quran , let her pardon ". His statement was also recorded before the IO.

22. He emphasized that Mst. Asia Bibi confessed her guilt before him immediately after her delivering the derogatory remarks towards the Holy Prophet ( PBUH) and the Holy Book, as when the occurrence took place, he (CW-1) was the very first ( male ) person being the owner of the field who immediately attracted towards the wrangling ladies as he was present there in his field.

23. His presence there at the place of occurrence is quite natural. The owners usually remain at the place of their business in our society and particularly the owners of the fruit gardens in order to have a vigilant watch upon their labour and in order to avoid any theft on the hand of the labourers and particularly when lady folk is on work. He has also no enmity with lady labour ( accused ) and she is doing the job under his employment since a long. He also banished the accused from his Falsa field upon her confession and the same was also quite natural response on his part. So, his testimony is quite trustworthy and natural. No dent was also created by the defence during the cross-examination.

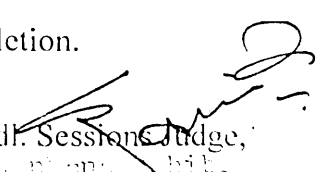
24. So, PW-2 and PW-3, the eye witnesses are quite unanimous about the derogatory remarks and about the time, date, field, day of the occurrence, they did not make any dishonest improvement in their statement. Both the PWs ladies did not involve any other person in this case except the accused lady. There is no any previous enmity in between the PWs 2 and 3 ( ladies ) and the lady accused. There is also no any enmity in between the PW-1, PW-4, CW-1 and the accused lady due to which they deposed against her or against any other male member of the accused lady.

25. PW-2 and PW-3 are the young girls who are also unmarried. Their presence in the Falsa field along with the accused lady is quite natural as they used to work there as labourer and Falsa pluckers. They are not the interested and chance witnesses.

26. In our society, normally, the ladies avoid to indulge in criminal cases even as complainant or witnesses particularly the parents of the unmarried and young girls never allow their daughters to go to the police stations or to appear before the Police Officers or in courts in order to record their statements or to face the ridiculous questions of the advocates. But in the instant case, the ladies (PW-2 and PW-3) took all the steps as they could not bear the blasphemy. Mst. Yasmeen Bibi another lady who was PW constantly appeared in the court but was given up being un-necessary.

27. There is also another important aspect of the case as Mst.Asia Bibi, the accused lady in her statement u/s 342 Cr.P.C. in answer to Question No.7 why this case against you, herself admitted her guilt when she postulates as

> " I along with number of ladies were working in the field. Both the ladies Mst. Mafia Bibi and Mst. Asma Bibi PWs quarreled with me over fetching water which was offered by me to bring for them but they refused saying that since, I am Christian, so, they never took water from the hand of Christian. Over this, quarrel was insued and some hot words were exchanged between myself and the PWs ladies ".

28. So, the question arises, what type or nature of the Hot Words would be there in between the Christian and Muslim ladies when the quarrel started from the refusal of drinking water by the Muslims ladies from the hands of a Christian lady, So, the phenomena was ultimately switched into religious matter and Hot Words should had not been other than the blasphemy.

29. It is also not out of place to mention here that there are so many Christians living in the same village along with Muslims since generation but not a single incident of such nature took place

in the past. Nevertheless, both the Christians and Muslims are in tolerance towards the religious feelings and faith of each other. Had any incident of blasphemy or derogatory remarks been happened or occurred in the past by any inhabitant of the village, there should have been criminal cases or religious altercation in the village. So, at present, there should have been the blasphemy, due to which the case was registered and the public gathering was gathered and the incident became the talk of town and of around.

30. It is also pertinent to mention here that neither the accused lady produced her defence evidence nor she gave compliance to section 340 (2) Cr.P.C. in disproof of the allegations leveled against her.'

31. The crux of the above discussion is that the prosecution has proved its case beyond any shadow of doubt. All the PWs have corroborated the prosecution version in a cogent and convincing manner. No enmity has been found in between the PWs and the accused lady and in between the elders or families of the both. So, the chances of false implication of the accused in the instant case are totally ruled out. No mitigating circumstances are available in the instant case to the accused lady . Hence, I convict the accused Mst. Asia Bibi wife of Ashiq u/s 295-C, PPC and sentenced to death penalty. The accused be hanged from the neck till her death. However, the death sentence shall not be executed unless confirmed by the Hon'ble Lahore High Court, Lahore. The convict is present before the court in custody who is informed that she can file an appeal against this judgment within seven days. She is also ordered to pay Rs.1,00,000/- as fine and in default whereof, she will further undergo S.I. for a period of six months. Copy of this judgment shall be supplied to the convict free of cost. File be consigned to the record room after its due completion.

Announced.
08.11.2010.

Addl. Sessions Judge,